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TAGS: [ECON](#) [ETTC](#) [HK](#) [PARM](#) [PREL](#)
SUBJECT: HONG KONG: EXPORT CONTROLS -- A REVIEW OF CASE DATA

REF: A. HONG KONG 673
[1](#)B. HONG KONG 1074
[1](#)C. 08 HONG KONG 966
[1](#)D. 08 HONG KONG 1763
[1](#)E. 08 HONG KONG 660

Classified By: Consul General Joseph Donovan, reasons
1.4 b and d.

[1](#)1. (C) Summary. Twelve years after Hong Kong's return to China, the United States and Hong Kong maintain a close and productive relationship on export control matters. Under the U.S. - Hong Kong Policy Act, as long as the United States Government is satisfied that sensitive technologies are protected from improper use or export, many controlled items that require a Department of Commerce, Bureau of Industry and Security (BIS) license for export or re-export to other destinations in the region do not need one for export to Hong Kong. In this report, we focus on one type of dual-use electronic component identified as 3A001a2c that is controlled by both U.S. and Hong Kong export control laws. During fiscal years 2008-2009, post Export Control Officer (ECO) conducted end-use checks (EUCs) on 31 shipments or proposed shipments of 3A001a2c components to Hong Kong. All checks were unfavorable and involved suspected diversion to mainland China in likely violation or attempted violation of U.S. and Hong Kong export control laws. Hong Kong Trade and Industry Department Strategic Trade Control Branch told us on April 2, 2009 that they have begun including with every import license for certain controlled electronic components (including the 3A001 category) a letter that explains the control requirements (ref A).

[1](#)2. (C) Summary, cont'd. From June 2008 - June 2009, ECO provided 18 export control case files (these files contain information including but not limited to unfavorable EUCs on companies suspected of export control violations) to the Hong Kong Trade and Industry Department's Strategic Trade Branch. Of these 18 cases, 10 were suspected diversions of 3A001a2c components to mainland China. The Hong Kong Government investigated all 18 cases (and continues investigations on ten cases), prosecuted two (both involving 3A001a2c diversion violations) and is considering prosecuting a third and closed out five cases after determining that there was no violation of Hong Kong law. End Summary.

[1](#)3. (C) Comment. Despite the Hong Kong Government's generally good cooperation and effective trade control system, we remain vigilant to mainland Chinese and other entities' potential use of Hong Kong as a procurement platform for controlled items that they would be unwilling or unable to obtain directly from the United States. Post will continue to closely monitor trade in controlled items and the effectiveness of the Hong Kong Government's trade control system. End Comment.

¶4. (C) Both the United States and Hong Kong impose export controls on multinationally agreed lists of strategic items. The U.S. system allows shipments of some controlled items to certain destinations without license - Hong Kong is one of these destinations - as long as the item is to be used in that destination. Under U.S. export control rules, Hong Kong enjoys more beneficial licensing treatment than mainland China. This is a reflection of Hong Kong's status as a separate and highly autonomous region with a developed and cooperative export control regime. Under Section 103, paragraph 8 of the U.S. - Hong Kong Policy Act, the "United States should continue to support access by Hong Kong to sensitive technologies controlled under the agreement of the Coordinating Committee for Multilateral Export Controls (COCOM) for so long as the U.S. is satisfied that such technologies are protected from improper use or export." For most U.S. national security-controlled electronic components, a BIS-issued license must be obtained for export or re-export to mainland China; but a BIS-issued license is not required if the products are exported to Hong Kong for use in Hong Kong. For example, 3A001a2c electronics components are eligible for shipment to Hong Kong without a BIS-issued license, but a BIS-issued license would be required to export these components to mainland China.

¶5. (C) Hong Kong's Trade and Industry Department, Strategic Trade Controls Branch is the Hong Kong Government's lead agency for export control issues and is BIS' counterpart. With approximately 40 staff, this agency processes about 140,000 export control licenses annually and coordinates with Hong Kong Customs to investigate violations of Hong Kong export control laws. Items on Hong Kong's strategic commodities list require a Hong Kong license for import into and export out of Hong Kong (including to mainland China). Hong Kong requires a license for all shipments (both imports and exports) of multilaterally controlled items.

Reviewing Trade Data for One Controlled Category

¶6. (C) A review of applicable trade data reveals that the United States exports significant volumes of electronic components controlled under export control classification number (ECCN) 3A001a2c to Hong Kong. 3A001a2c electronic components are rated to perform at military-standard temperature ranges and are useful in a range of military applications. These components also can be effectively utilized in civilian applications, for example in oil exploration equipment, which require electronic components that can withstand high temperature extremes, and in medical equipment where high reliability is needed. BIS-issued licenses are not needed for 3A001a2c electronic components exported to Hong Kong if they are for use/resale in Hong Kong, although a Hong Kong import license must be obtained from the Strategic Trade Controls Branch. 3A001a2c electronic components require a BIS-issued license for export/re-export to mainland China.

¶7. (U) According to Hong Kong's Trade and Industry Department Strategic Trade Controls Branch strategic trade licensing statistics (provided to post BIS ECO pursuant to an information sharing arrangement) with data from January 1, 2008 - June 30, 2008:

--The value of Hong Kong-issued import licenses for 3A001a2c items was USD 4.65 billion while the value of export licenses was USD 1.06 billion.

--Hong Kong Trade and Industry Department Strategic Trade Controls Branch issued import licenses to seven companies for 3A001a2c items - all seven companies are resellers - and none of the import licenses referenced manufacturing in Hong Kong.

--Hong Kong Trade and Industry Department Strategic Trade

Controls Branch issued export licenses to five companies for 3A001a2c items - all five are major electronics resellers - but Hong Kong did not issue any licenses for the re-export of 3A001a2c items to mainland China.

The first data point indicates that the value of import licenses was over four and a half times greater than export licenses for electronic component 3A001a2c. Hong Kong Trade and Industry Department Strategic Trade Controls Branch reports that Hong Kong companies routinely "over apply" for licenses to cover potential shipments. Still, one might conclude from this data point that the large majority of 3A001a2c components imported into Hong Kong are utilized in Hong Kong. However, the second data point seems to contradict the first and indicates that the seven companies that obtained import licenses for 3A001a2c components are resellers and none referenced manufacturing in Hong Kong. The third data point indicates that five companies obtained export licenses for 3A001a2c items; however, none of these licenses were to export to mainland China.

All End-Use Checks Prove Unfavorable for 3A001a2c's

18. (C) During FY2008 and FY2009, Post BIS ECO conducted end-use checks (EUCs) on 31 shipments (or proposed shipments) of 3A001a2c components involving at least 18 consignees. All 31 of the FY 2008 and FY 2009 3A001a2c checks were unfavorable and all involved suspected/attempted diversion to mainland China in likely violation (or attempted violation) of U.S. and Hong Kong export control laws (see ref B for an example). These 31 EUCs implicated at least 25 Hong Kong companies that are acting as conduits to transship 3A001a2c items to mainland China in apparent violation of Export Administration Regulations. While ECO has had other unfavorable EUCs, this product type represents the majority of suspected shipments.

19. (C) One of the major U.S. electronics resellers in Hong Kong (and one of the largest recipients of Hong Kong-issued import licenses) provided ECO with a list of nearly 50 3A001a2c customers (based on 2008 sales). Of those nearly 50 companies, at least 25 of them are the subject of (or related to) unfavorable EUCs ECO has conducted or are otherwise of concern for tech transfer reasons.

A Proliferation of Small-Scale Proliferators?

110. (C) Post ECO has also documented the operation of a large number of Hong Kong companies that act as procurement companies for mainland customers. Many of these Hong Kong entities share similar characteristics, small, single-room offices, handful of staff, phone/fax, computer terminal and company web-sites. Many of the mainland companies involved in these electronics components trading networks claim to trade in military grade electronics components and show images of warships, fighter jets and missiles on their web-sites (see ref C for details on one such network. Also see the following web-sites):

www.star-ic.com
www.szhtic.com
www.freeicforum.com

The Hong Kong Government's Response Record

111. (C) From June 2008 - June 2009, ECO provided 18 export control case files (these files contain information including but not limited to unfavorable EUCs on companies suspected of export control violations) to the Hong Kong Trade and Industry Department's Strategic Trade Branch. Of these 18 cases, 10 were suspected diversions of 3A001a2c components to mainland China. The Hong Kong Government investigated all 18 cases (and continues investigations on ten cases), prosecuted two (both involving 3A001a2c diversion violations) and is considering prosecuting a third and closed out five cases

after determining that there was no violation of Hong Kong law. Hong Kong Trade and Industry Department Strategic Trade Control Branch told us on April 2, 2009 that they have begun including with every import license for certain controlled electronic components (including the 3A001 category) a letter that explains the control requirements. ECO believes that HKTID's action is in response to recent BIS end-use checks and related cases involving diversion of U.S. origin electronics through Hong Kong to mainland China where higher licensing requirements apply. (ref A). (NOTE: In June 2009, ECO provided five case files to Strategic Controls Trade Branch after the head of the Branch stated that the number of cases provided the previous June (eleven) had overwhelmed his and Hong Kong Customs' staffs and requested a reduction in the case load. ECO expects a status report on these five cases later this summer. END NOTE.)

U.S. Prosecutions

¶12. (C) Meanwhile, since 2008 three cases involving violation of U.S. export laws for shipments of electronic components through Hong Kong have been prosecuted in the United States.

--Chitron (<http://www.boston.fbi.gov/dojpressrel/pressrel08/exportviolations120808.htm>)
--OnTime Electronics (<http://www.dodig.mil/IGInformation/IGInformationReleases/08-nsd-959.pdf>)
--Fushine (<http://www.ice.gov/pi/nr/0904/090408sanjose.htm>)

¶13. (C) The U.S. and Hong Kong governments continue significant and productive collaboration on export control related matters (see refs D and E). This law enforcement cooperation has not been without setbacks, however. In April 2008, Beijing instructed the Hong Kong SAR Department of Justice to deny the U.S. request for extradition of Yousef Boushvas, an Iranian citizen accused of illegally exporting military-use aircraft spare parts. (ref E)

DONOVAN